

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

YOUNGSOFT, INC, et al.,

Plaintiffs,

v.

Case No. 20-12800

THE SKYLIFE COMPANY, INC.,

Defendant.

**ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION
TO COMPEL DISCOVERY RESPONSES AND
RESETTING THE DISPOSITIVE MOTION DEADLINE**

Currently before the court is Plaintiffs' July 20, 2021 motion to compel discovery responses. (ECF No. 28.)

According to the motion, on February 18, 2021, counsel for Plaintiff served on Defendant Plaintiffs' first requests for production and interrogatories. (*Id.*, PageID.128, 136.) Despite Plaintiffs' attempt to contact Defendant regarding the outstanding discovery requests Defendant has provided no response to these initial discovery requests. (ECF No. 34, PageID.163.) Additionally, following the filing of the initial motion to compel, Defendant's CEO, Jeffery Potter, failed to appear for his deposition on July 30, 2021, and Plaintiffs have not yet been able to reschedule it. (*Id.*, PageID.164.) After the filing of the motion to compel, Defendant's counsel successfully moved to withdraw from the case. (ECF Nos. 35, 36.) Defendant has now retained new counsel in the matter—narrowly averting a default—but, despite the passage of almost three months, Defendant has not responded to the motion to compel. Plaintiffs also reported during an

October 28, 2021 status conference that no discovery documents have yet been produced by Defendants.

“Responses to all motions, except those listed in subparagraph 2(A) below, must be filed within 14 days after service of the motion.” E.D. Mich. LR 7.1(e)(1)(A). Yet to date, Plaintiffs have not responded to the present motion, even though the 14-day deadline expired months ago. The local court rules of the Eastern District of Michigan required Defendant to file a response if it wishes to oppose Plaintiff’s motion to compel. See E.D. Mich. LR 7.1(c)(1) (“A respondent opposing a motion *must* file a response, including a brief and supporting documents then available.”) (emphasis added). Opposition to a motion is deemed waived if the responding party fails to respond or otherwise oppose the motion. See *Humphrey v. United State Attorney General’s Office*, 279 F. App’x 328, 331 (6th Cir. 2008). Because Defendant has not responded to Plaintiffs’ motion to compel discovery responses, Plaintiffs’ motion can and will be construed as unopposed.¹ Accordingly,

IT IS ORDERED that Plaintiff’s Motion to Compel Discovery Responses (ECF No. 28) is GRANTED as unopposed, and Defendant must respond to Plaintiffs’ first requests for production and interrogatories (ECF Nos. 34-1, 34-2), and produce all responsive documents, by **November 11, 2021**.

¹ Given the considerable delay that Defendant has already caused in this matter, the court expects that Defendant will make CEO Jeffery Potter and other needed witness available for deposition before on or about November 11, 2021.

IT IS FURTHER ORDERED that the dispositive motion Deadline is RESET to
November 30, 2021.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 29, 2021

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 29, 2021, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522

S:\Cleland\Cleland\AAB\Opinions and Orders\Civil\20-12800.YOUNGSOFT.GrantingMotionToCompel.AAB.RHC.docx